HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5577 of 2007

Dated:22.03.2007

Between:

G.S.Jayakar.

…Petitioner

and

The Chief Commissioner, Land Administration, and another.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5577 of 2007

ORDER:

This Writ Petition is filed seeking the following relief.

> For the reasons stated in the accompanying affidavit, this Hon'ble Court may be pleased to issue writ or writs or order or directions more particularly in the nature of Writ of Mandamus declaring the Sub Division Sketch dt.17.05.2006 prepared by the respondent No.2 in proceedings CC Nos.2924/1976 as illegal, arbitrary, null and void and be pleased to pass such other order/s as this Hon'ble court may deem fit and proper in the circumstances of the case.

The above relief is sought in the background as noticed hereafter. Late G.Sandaiah was the owner of land admeasuring Acs.7.12 guntas in Survey Nos.14, 15, 367 and 384 to 387 situated at Gudimalkapur Village of Asifnagar Mandal in Hyderabad District. The petitioner, his two brothers and two sisters inherited the property. The petitioner alleges that initially he got an extent of Acs.2.04 guntas as his share and after the death of his sister, Deenamma, he also got another extent of 674.79 square yards. The petitioner filed a declaration under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'), before the second respondent, and after processing the same, the draft statement under Section 8(1) of the Act was issued on 17.11.2004 declaring the petitioner as holder of surplus vacant land in an extent of 7271.98 square metres. The petitioner filed objections. After considering the same, final statement/final orders were issued under Section

8(4) read with Section 9 of the Act, by proceedings dated 15.02.2005. The petitioner preferred an appeal before the first respondent, which was dismissed on 04.08.2005. Aggrieved by the same, the petitioner filed a Writ Petition, being W.P.No.19097 of 2005. This Court while admitting the Writ Petition passed interim orders on 30.08.2005 in W.P.M.P.No.24310 of 2005 ordering *status quo* while observing that it shall be open to the authorities of Urban Land Ceiling to proceed with the matter under Sections 10(1), 10(3) and 10(5) of the Act, if not already taken up. The Writ Petition is pending. The petitioner alleges that he came to know that the second respondent got prepared a subdivision sketch at the behest of some vested rival claimants without any information or notice to the petitioner. He obtained a certified copy from the Special Tahasildar (Urban Land Ceiling) on 17.05.2006 and filed the Writ Petition assailing the same.

It is the contention of the petitioner that out of the total extent of Acs.9.16 guntas owned by Sandaiah, children of Sandaiah through his first wife, who are the declarants in C.C.No.B1/2921/76, got an extent of Acs.2.04 guntas and that the children of Sandaiah through his second wife, who are the declarants in C.C.No.B1/2922/76, B1/2923/76, B1/2924/76, B1/1166/76 and B1/1165/76 got Acs.7.12 guntas. However, in subdivision sketch this is not tallying.

Learned Counsel for the petitioner reiterated the contentions in paragraph 6 of the affidavit accompanying the Writ Petition. Learned Assistant Government Pleader points out that a Writ Petition assailing the sketch plan is not maintainable, as without proper subdivision, it is not possible for the Special Officer to order taking of possession of the land declared as surplus under the provisions of the Act. He also points out that even when the petitioner filed Writ Petition in 2005 assailing the orders of the first respondent confirming the final statement issued by the second respondent, the subdivision sketch plans were very much available, and the same was not an issue in the Writ Petition.

As rightly pointed out, the subdivision sketch is dated 21.10.2001, which was available even before the second respondent issued final statement under Section 8(4) of the Act on 15.02.2005, and the first respondent dismissed the appeal on 04.08.2005. Secondly, while admitting the Writ Petition assailing the Urban Land Ceiling proceedings, this Court observed that it shall be open to the Urban Land Ceiling authorities to proceed with other steps consequent to the final orders under Section 8(4) of the Act. Therefore, the petitioner has to agitate the matter only in the pending Writ Petition, and this Writ Petition is misconceived. It may also be noted that if the petitioner ultimately succeeds in the Writ Petition, he can always seek necessary redressal and the Writ Petition challenging the subdivision sketch is misconceived.

The Writ Petition is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

22.03.2007
vs